

been made and the notices given in accordance with this subpart.

(6) For reallocation liability certifications—

(i) A certification, signed by the plan's actuary, that the determination of unfunded vested benefits has been done in accordance with part 4281, subpart B; and

(ii) A copy of plan rules, if any, adopted pursuant to § 4219.15(d).

(h) *Additional information.* In addition to the information described in paragraph (g) of this section, the PBGC may require the plan sponsor to submit any other information the PBGC determines it needs in order to monitor compliance with this subpart.

[61 FR 34102, July 1, 1996, as amended at 68 FR 61355, Oct. 28, 2003]

**§ 4219.18 Withdrawal in a plan year in which substantially all employers withdraw.**

(a) *General rule.* An employer that withdraws in a plan year in which substantially all employers withdraw from the plan shall be liable to the plan for *de minimis* amounts if the employer's initial withdrawal liability was reduced pursuant to section 4209(a) or (b) of ERISA.

(b) *Amount of liability.* An employer's liability for *de minimis* amounts under this section shall be determined pursuant to § 4219.13.

(c) *Plan sponsor's obligations.* The plan sponsor of a plan that experiences a withdrawal described in paragraph (a) shall—

(1) Determine and collect initial withdrawal liability of every employer that has completely or partially withdrawn, in accordance with sections 4201 and 4202 of ERISA;

(2) Notify each employer that is or may be liable under this section, in accordance with paragraph (d) of this section;

(3) Within 90 days after the end of the plan year in which the withdrawal occurred, determine, in accordance with paragraph (b) of this section, the liability of each withdrawing employer that is liable under this section;

(4) Notify each liable employer, in accordance with paragraph (e) of this section, of the amount of its liability

under this section, demand payment of and collect that liability; and

(5) Certify to the PBGC that determinations of liability have been completed, in accordance with paragraph (g) of this section.

(d) *Notice of withdrawal.* Within 30 days after the end of a plan year in which a plan experiences a withdrawal described in paragraph (a), the plan sponsor shall notify in writing each employer that is or may be liable under this section. The notice shall specify the plan year in which substantially all employers have withdrawn, describe the consequences of such withdrawal under this section, and state that an employer obligated to make initial withdrawal liability payments shall continue to make those payments in accordance with its schedule.

(e) *Notice of liability.* Within 30 days after the determination of liability, the plan sponsor shall issue a notice of liability in writing to each liable employer. The notice shall include—

(1) The amount of the employer's liability for *de minimis* amounts;

(2) A schedule for payment of the liability, determined under § 4219.16(f); and

(3) A demand for payment of the liability in accordance with the schedule.

(f) *Review of liability determinations.* Determinations of liability made pursuant to this section shall be subject to plan review under section 4219(b)(2) of ERISA and to arbitration under section 4221 of ERISA, subject to the limitations contained in § 4219.16(g).

(g) *Notice to the PBGC.* No later than 30 days after the notices of liability under this section are required to be provided to liable employers, the plan sponsor shall file with the PBGC a notice. The notice shall include the items described in § 4219.17 (g)(1) through (g)(3), as well as the information listed below. In addition, the PBGC may require the plan sponsor to submit any further information that the PBGC determines it needs in order to monitor compliance with this section.

(1) The plan year in which the withdrawal occurred.

(2) A description of the effect of the withdrawal, including the number of contributing employers that withdrew

in the plan year in which substantially all employers withdrew, the number of employers remaining in the plan, and a description of the effect of the withdrawal on the plan's contribution base.

(3) A certification, signed by the plan sponsor or duly authorized representative, that determinations have been made and notices given in accordance with this section.

**§ 4219.19 Method and date of issuance; computation of time.**

The PBGC applies the rules in subpart B of part 4000 of this chapter to determine permissible methods of issuance under this subpart. The PBGC applies the rules in subpart C of part 4000 of this chapter to determine the date that an issuance under this subpart was provided. The PBGC applies the rules in subpart D of part 4000 of this chapter to compute any time period for issuances to third parties under this subpart.

[68 FR 61356, Oct. 28, 2003]

**§ 4219.20 Information collection.**

The information collection requirements contained in §§ 4219.16, 4219.17, and 4219.18 have been approved by the Office of Management and Budget under control number 1212-0034.

[61 FR 34102, July 1, 1996. Redesignated at 68 FR 61356, Oct. 28, 2003]

**Subpart C—Overdue, Defaulted, and Overpaid Withdrawal Liability**

**§ 4219.31 Overdue and defaulted withdrawal liability; overpayment.**

(a) *Overdue withdrawal liability payment.* Except as otherwise provided in rules adopted by the plan in accordance with § 4219.33, a withdrawal liability payment is overdue if it is not paid on the date set forth in the schedule of payments established by the plan sponsor.

(b) *Default.* (1) Except as provided in paragraph (c)(1), “default” means—

(i) The failure of an employer to pay any overdue withdrawal liability payment within 60 days after the employer receives written notification from the plan sponsor that the payment is overdue; and

(ii) Any other event described in rules adopted by the plan which indicates a substantial likelihood that an employer will be unable to pay its withdrawal liability.

(2) In the event of a default, a plan sponsor may require immediate payment of all or a portion of the outstanding amount of an employer's withdrawal liability, plus interest. In the event that the plan sponsor accelerates only a portion of the outstanding amount of an employer's withdrawal liability, the plan sponsor shall establish a new schedule of payments for the remaining amount of the employer's withdrawal liability.

(c) *Plan review or arbitration of liability determination.* The following rules shall apply with respect to the obligation to make withdrawal liability payments during the period for plan review and arbitration and with respect to the failure to make such payments:

(1) A default as a result of failure to make any payments shall not occur until the 61st day after the last of—

(i) Expiration of the period described in section 4219(b)(2)(A) of ERISA;

(ii) If the employer requests review under section 4219(b)(2)(A) of ERISA of the plan's withdrawal liability determination or the schedule of payments established by the plan, expiration of the period described in section 4221(a)(1) of ERISA for initiation of arbitration; or

(iii) If arbitration is timely initiated either by the plan, the employer or both, issuance of the arbitrator's decision.

(2) Any amounts due before the expiration of the period described in paragraph (c)(1) shall be paid in accordance with the schedule established by the plan sponsor. If a payment is not made when due under the schedule, the payment is overdue and interest shall accrue in accordance with the rules and at the same rate set forth in § 4219.32.

(d) *Overpayments.* If the plan sponsor or an arbitrator determines that payments made in accordance with the schedule of payments established by the plan sponsor have resulted in an overpayment of withdrawal liability, the plan sponsor shall refund the overpayment, with interest, in a lump sum. The plan sponsor shall credit interest